

AMENDED IN SENATE APRIL 27, 1999

SENATE BILL

No. 567

Introduced by Senator Speier
(Coauthors: Senators Figueroa and Murray)
(Coauthor: Assembly Member Longville)

February 19, 1999

An act to amend Sections 12810, 27360, 27360.5, 27361, and 27363 of, and to add Section 27362.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 567, as amended, Speier. Vehicles: child passenger restraint system: seatbelts.

(1) It is unlawful for any parent or legal guardian, when present in a motor vehicle, as defined, to permit his or her child or ward who is less than 4 years of age or weighs less than 40 pounds to be transported on the highway in the vehicle without using a specified child passenger restraint system. Existing law specifies the fines for a violation of this prohibition, provides for the allocation of those fines that are collected in accordance with a specific schedule, and provides that the fines may be waived if the defendant establishes that he or she is economically disadvantaged.

This bill would increase the fines specified above.

The bill ~~would delete~~ *in addition to* the authority to waive the fines and, ~~instead,~~ would authorize the fines to be reduced, with respect to persons not previously convicted within a 36-month period of the offense or the offense described in *paragraph* (2). The bill would require persons subject to a

reduced fine to attend an education program, and would allow the court to require other persons convicted of the offense to attend the education program. The bill would make certain conforming changes.

(2) Under existing law, it is unlawful for any parent or legal guardian, when present in a motor vehicle, as defined, to permit his or her child or ward who is between 4 and 16 years of age to be transported on the highway in the vehicle without using a safety belt.

This bill would authorize the court to order a person who is convicted of violating the above to attend an education program. The bill would also require fines collected for violating this prohibition to be allocated in accordance with a specified schedule. Because this would increase the duties imposed on local entities, this bill would impose a state-mandated local program.

(3) Existing law exempts from the requirements described in *paragraphs* (1) and (2) regarding the use of seatbelts and child passenger restraint systems on children, instances involving the transportation of children in emergencies.

This bill would limit the exemption to life-threatening emergencies and to children who are at least one year of age. The bill would thereby expand the scope of existing crimes, and would create a state-mandated local program.

The bill would make a corresponding change.

(4) Existing law authorizes a court to exempt from the child passenger restraint system requirements any child for whom it is determined that the use of the system would be impractical by reason of physical unfitness, medical condition, or size. The court is authorized to require proof of those conditions.

This bill, additionally, would authorize the court to require proof that an appropriate special needs child passenger restraint system is not available.

The bill would authorize a child weighing more than 40 pounds to be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.

(5) Existing law prohibits any manufacturer, wholesaler, or retailer to sell, offer for sale, or install in any motor vehicle any child passenger restraint system that does not conform to all applicable federal motor vehicle safety standards on the date of sale or installation.

This bill would prohibit any person from selling or offering for sale ~~any motor vehicle~~ any used child passenger restraint system. Because a violation of this prohibition would be an infraction under the Vehicle Code, the bill would impose a state-mandated program by creating a new crime.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12810 of the Vehicle Code is
2 amended to read:

3 12810. In determining the violation point count, the
4 following shall apply:

5 (a) Any conviction of failure to stop in the event of a
6 traffic accident in violation of Section 20001 or 20002 shall
7 be given a value of two points.

8 (b) Any conviction of a violation of Section 23152 or
9 23153 shall be given a value of two points.

1 (c) Any conviction of reckless driving shall be given a
2 value of two points.

3 (d) (1) Any conviction of a violation of subdivision
4 (c) of Section 192 of the Penal Code, or of Section 2800.2
5 or 2800.3, subdivision (b) of Section 21651, subdivision (b)
6 of Section 22348, subdivision (a) of Section 23109,
7 subdivision (c) of Section 23109, or Section 31602 of this
8 code, shall be given a value of two points.

9 (2) Any conviction of a violation of subdivision (a) or
10 (b) of Section 23140 shall be given a value of two points.

11 (e) Except as provided in subdivision (g), any other
12 traffic conviction involving the safe operation of a motor
13 vehicle upon the highway shall be given a value of one
14 point.

15 (f) Any traffic accident in which the operator is
16 deemed by the department to be responsible shall be
17 given a value of one point.

18 (g) (1) A violation of paragraph (1), (2), (3), or (5)
19 of subdivision (b) of Section 40001 shall not result in a
20 violation point count being given to the driver if the
21 driver is not the owner of the vehicle.

22 (2) Any conviction of a violation of subdivision (a) of
23 Section 21116, Section 21207.5, 21708, 21710, 21716, 23120,
24 24800, or 26707 shall not be given a violation point count.

25 (3) A violation of Section 23136 shall not result in a
26 violation point count.

27 (h) A conviction for only one violation arising from
28 one occasion of arrest or citation shall be counted in
29 determining the violation point count for the purposes of
30 this section.

31 (i) Any conviction of a violation of Section 14601,
32 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value
33 of two points.

34 (j) Any conviction of a violation of Section 27360 or
35 27360.5 within a 37-month period shall be given a value of
36 one point.

37 SEC. 2. Section 27360 of the Vehicle Code is amended
38 to read:

39 27360. (a) No parent or legal guardian, when present
40 in a motor vehicle, as defined in Section 27315, shall

1 permit his or her child or ward under the age of four
2 years, regardless of weight, or weighing less than 40
3 pounds, regardless of age, to be transported upon a
4 highway in the motor vehicle without providing and
5 properly using, for each child or ward, a child passenger
6 restraint system meeting applicable federal motor
7 vehicle safety standards.

8 (b) No driver shall transport on a highway any child
9 under four years of age, regardless of weight, or weighing
10 less than 40 pounds, regardless of age, in a motor vehicle,
11 as defined in Section 27315, without providing and
12 properly securing the child in a child passenger restraint
13 system meeting applicable federal motor vehicle safety
14 standards. This subdivision does not apply to a driver if
15 the parent or legal guardian of the child is also present in
16 the vehicle and is not the driver.

17 (c) (1) A first offense under this section is punishable
18 by a fine of one hundred dollars (\$100), except that the
19 court may *waive or* reduce the fine if the defendant
20 establishes to the satisfaction of the court that he or she
21 is economically disadvantaged, has not had a previous
22 conviction for a violation of this section or subdivision (c)
23 of Section 27360.5 within 36 months of the recent
24 violation, and the court, instead, refers the defendant to
25 a community education program that includes, but is not
26 limited to, demonstration of the proper installation and
27 use of child passenger restraint systems for children of all
28 ages, and provides economically disadvantaged families
29 with a child passenger restraint low-cost purchase or
30 loaner program. Upon completion of the program, the
31 defendant shall provide proof of participation in the
32 program, that includes an inspection of a child passenger
33 restraint system that meets applicable federal safety
34 standards. If an education program on the proper
35 installation and use of a child passenger restraint system
36 is not available within 50 miles of the residence of the
37 defendant, the requirement to participate in that
38 program shall be waived. If the fine is paid, waived, or
39 reduced, the court shall report the conviction to the
40 department pursuant to Section 1803.

1 The court may, at its discretion, require any defendant
2 described under this section to attend an education
3 program that includes demonstration of proper
4 installation and use of child passenger restraint systems
5 and provides certification to the court that the defendant
6 has presented for inspection a child passenger restraint
7 system that meets applicable federal safety standards.

8 (2) A second or subsequent offense under this section
9 is punishable by a fine of two hundred fifty dollars (\$250),
10 no part of which may be waived by the court.

11 (d) Notwithstanding any other provision of law, the
12 fines collected for a violation of this section shall be
13 allocated as follows:

14 (1) Sixty percent to health departments of local
15 jurisdictions, as defined in Section 16700 of the Welfare
16 and Institutions Code, where the violation occurred, to be
17 used for a community education program that includes,
18 but is not limited to, demonstration of the installation of
19 a child passenger restraint system for children of all ages
20 and also assists economically disadvantaged families in
21 obtaining those restraint systems through low-cost
22 purchases or loans. The county or city health department
23 shall designate a coordinator to facilitate the creation of
24 a special account and to develop a relationship with the
25 municipal court system to facilitate the transfer of funds
26 to the program. The county or city may contract for the
27 implementation of the program. Prior to obtaining
28 possession of a child passenger restraint system pursuant
29 to this section, a person shall attend an education
30 program that includes demonstration of proper
31 installation and use of child passenger restraint systems.

32 As the proceeds from fines become available, county or
33 city health departments shall prepare and maintain a
34 listing of all child passenger restraint low-cost purchase or
35 loaner programs in their counties, including a semiannual
36 verification that all programs listed are in existence. Each
37 county or city shall forward the listing to the Office of
38 Traffic Safety in the Business, Transportation and
39 Housing Agency and the courts, birthing centers,
40 community child health and disability prevention

1 programs, county clinics, prenatal clinics, women,
2 infants, and children programs, and county hospitals in
3 that county, who shall make the listing available to the
4 public. The Office of Traffic Safety shall maintain a listing
5 of all of the programs in the state.

6 (2) Twenty-five percent to the county or city for the
7 administration of the program.

8 (3) Fifteen percent to the city, to be deposited in its
9 general fund except that, if the violation occurred in an
10 unincorporated area, this amount shall be allocated to the
11 county for purposes of paragraph (1).

12 SEC. 3. Section 27360.5 of the Vehicle Code is
13 amended to read:

14 27360.5. (a) No parent or legal guardian, when
15 present in a motor vehicle, as defined in Section 27315,
16 may permit his or her child or ward who is four years of
17 age or older but less than 16 years of age and weighs 40
18 pounds or more to be transported upon a highway in the
19 motor vehicle without providing and properly using, for
20 each child or ward, an appropriate child passenger
21 restraint system or safety belt meeting applicable federal
22 motor vehicle safety standards.

23 (b) No driver shall transport on a highway any child
24 who is four years of age or older but less than 16 years of
25 age and weighs 40 pounds or more in a motor vehicle, as
26 defined in Section 27315, without providing and properly
27 using a safety belt meeting applicable federal motor
28 vehicle safety standards. This subdivision does not apply
29 to a driver if the parent or legal guardian of the child is
30 also present in the vehicle and is not the driver.

31 (c) (1) A first offense under this section is punishable
32 by a fine of one hundred dollars (\$100).

33 The court may, at its discretion, require any defendant
34 punishable under this paragraph to attend an education
35 program that includes demonstration of the proper use of
36 occupant restraint systems for children of all ages.

37 (2) A second or subsequent offense under this section
38 is punishable by a fine of two hundred fifty dollars (\$250),
39 no part of which may be waived by the court.

1 (d) Notwithstanding any other provision of law, the
2 fines collected for a violation of this section shall be
3 allocated as follows:

4 (1) Sixty percent to county or city health departments
5 where the violation occurred, to be used for an education
6 program that includes, but is not limited to, the
7 demonstration of proper installation and use of child
8 passenger restraint systems for children of all ages and
9 provides child restraints for loan or low-cost purchase.

10 (2) Twenty-five percent to the county or city for the
11 administration of the program.

12 (3) Fifteen percent to the city, to be deposited in its
13 general fund except that, if the violation occurred in an
14 unincorporated area, this amount shall be allocated to the
15 county for purposes of paragraph (1).

16 SEC. 4. Section 27361 of the Vehicle Code is amended
17 to read:

18 27361. Any law enforcement officer reasonably
19 suspecting a violation of Section 27360 or 27360.5, or both
20 of those sections, may stop any vehicle transporting a
21 child appearing to the officer to be within the age or
22 weight specified in Section 27360 or 27360.5. The officer
23 may issue a notice to appear for a violation of Section
24 27360 or 27360.5.

25 SEC. 5. Section 27362.5 is added to the Vehicle Code,
26 to read:

27 27362.5. No person may sell or offer for sale any used
28 child passenger restraint system.

29 SEC. 6. Section 27363 of the Vehicle Code is amended
30 to read:

31 27363. (a) The court may exempt from the
32 requirements of this article any class of child by age,
33 weight, or size if it is determined that the use of a child
34 passenger restraint system would be impractical by
35 reason of physical unfitness, medical condition, or size.
36 The court may require satisfactory proof of the child's
37 physical unfitness, medical condition, or size and that an
38 appropriate special needs child passenger restraint
39 system is not available.

(b) In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available and the child is at least one year of age, a child may be transported without the use of ~~such a~~ *that* system, but the child shall be secured by a seatbelt.

(c) A child weighing more than 40 pounds may be transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with a combination lap and shoulder safety belt.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.